

Information for Property Tax Appeals

For Tax Year 2005

Introduction

This packet will assist you in filing and presenting your 2005 property-tax appeal to the board. For simplicity, the packet will present general information and will assume your municipality has mailed its final tax bill by December 31, 2005. There are exceptions to the uniform deadlines: a) when final tax bills are mailed after December 31; and b) for municipalities with different billing cycles. You should contact your municipality or the board if you think an exception applies.

Filing an Appeal

Before filing an appeal with the board, you must have timely filed a written abatement application with your municipality (RSA 76:16). Assuming your municipality sent final tax bills by December 31, 2005, you must file your abatement application by **March 1, 2006**. If final tax bills were mailed out after December 31, 2005, see RSA 76:16-d for deadlines.

After filing with your municipality, your municipality **should review your abatement application** and provide you with a decision by **July 1, 2006**. The board encourages taxpayers to review their assessment-record card and the abatement application with the municipality before appealing to the board. Thus, please try to arrange a meeting with your local officials. If you have an appraisal or other documents to support your request, you should provide them to the municipality.

If the selectmen **neglect** or **refuse** to abate, you may file an appeal with the board or the superior court in the county your property is located in, but **not** with both (RSA 76:16-a; RSA 76:17). An appeal form for this board is included with this packet, and you should fill it out with as much detail as you can. You must file on or before **September 1, 2006**. You cannot, however, file with the board until one of the following has occurred: 1) the municipality has given you a written decision; or 2) the municipality has neglected to respond to your abatement request by **July 1, 2006**. ***Your municipality's failure to respond to your abatement application does not extend this deadline.** The board **cannot**, by statute, accept untimely appeals.

The Hearing Process

After the board receives your appeal, a questionnaire will be sent to your municipality to obtain certain information, including whether a timely abatement application was filed. If the municipality requires an inventory, and not all do, the municipality will also state whether it was timely filed. If either deadline was missed, the board may ultimately dismiss the appeal. However, the taxpayer will be given an opportunity to provide evidence of timely filing before dismissal occurs. If timely filed, the board will continue processing the appeal and schedule a hearing in due course. You may continue to seek a resolution with your municipality, which the board encourages.

You will be notified in advance of the hearing date. You should bring all applicable documents to the hearing. You must notify the municipality in writing no less than **fourteen (14) days** before the hearing of any comparable properties you intend to use at the hearing **even if these comparables were listed on your original appeal document when you initially filed your appeal**. If you have an appraisal, statistical report or comparable sales, you must send a copy to the municipality **after** the hearing notice **but not less than 14 days before** the hearing. If proper notice is not given, you will **not** be allowed to use the comparables or report.

The hearing will last approximately 40 minutes, and taxpayers can appear without representation. If properly prepared, taxpayers can competently represent themselves (as many have) before the board. The board accepts written summaries of cases provided they are legible and of a reasonable length. A written decision will be issued following the hearing.

Commonly Asked Questions

Q. I don't understand how the municipality came up with this assessment, can the board explain?

A. No. How your assessment was calculated and how much tax you pay cannot be determined by the board, however this question can be answered by your municipality.

Q. What is the best way to review my assessment?

A. Take the following steps: 1) go to the tax assessor and obtain your assessment-record card; 2) review the card and discuss any questions or errors with the assessor; 3) determine your equalized assessment (see below); 4) estimate the property's market value; and 5) compare the value estimate with the equalized assessment.

The board's main focus will be on whether your equalized assessment exceeds the property's market value. Use the following to calculate your equalized assessment.

Equalized Assessment = \$ Assessment) applicable equalization ratio

Example: Assessment = \$120,000
Equalization ratio = 1.20 (available from municipality and reflects generally how assessment values compare to market values). A 1.20 ratio means assessed values generally exceed market values. \$120,000) 1.20 = \$100,000. You would then ask: was my property worth \$100,000 (the equalized value) on April 1 of the tax year?

Q. Who can file for an abatement with the municipality and an appeal with this board?

A. Any person or entity aggrieved by reason of paying the tax. Generally this is the property owner but can be others. Your right to apply and appeal for an abatement are not lost because you sold or bought during the applicable tax year. However, you must be an aggrieved party and meet all timely filing requirements. If the municipality requires an inventory, the failure of an owner to file that inventory runs with the land. If the predecessor in title failed to file, you may lose your appeal rights.

Q. How do I apply to my municipality for an abatement?

A. You must apply in writing to the municipality (RSA 76:16), by **March 1, 2006** (in most cases), on the enclosed abatement application form.

Q. What if I disagree with the municipality's decision on my abatement application or if the municipality fails to act on my application?

A. You can either discontinue your abatement request or, by **September 1, 2006** (in most cases), you can appeal the municipality's action or inaction to the board (RSA 76:16-a) or to the superior court (RSA 76:17) in the county where the property is located. **PLEASE NOTE: YOU SHOULD CONTACT THE SUPERIOR COURT DIRECTLY FOR INFORMATION ON YOUR PROPERTY-TAX FILING DEADLINES.**

Q. Can I appeal to both the superior court and the board?

A. No. If you file with the court, you **cannot** file with the board. If you file with the board, you **cannot** file with the court.

Q. My municipality requires the annual filing of inventory. Must I file the inventory to seek an abatement?

A. Yes. If an inventory is required, you must have **timely** filed the inventory with the municipality to seek an abatement. Failure to timely file an inventory results in the taxpayer losing the right to seek an abatement. (RSA 74:7-a). Failure of predecessor title owner runs with the land.

Q. Must I pay my taxes while my appeal is pending?

A. Yes. Filing with your municipality and appealing to the board or the superior court does not relieve the taxpayer=s obligation to pay the taxes owed. The municipality has the right to charge you interest on unpaid taxes (even if an abatement is granted), to place a lien on your property, and take other collection steps while your application and appeal are pending. If an abatement is ordered by the board and taxes have been paid, the abated taxes will be refunded to you with 6% interest.

Q. Must I wait to hear from the municipality before I appeal to the board?

A. Not necessarily. If July 1st has not yet passed, you must wait. If July 1st has passed, then you may appeal to the board whether or not you have heard from the municipality. However, you must appeal to the board no later than September 1st (in most cases). The municipality=s failure to act on your abatement application does not extend this deadline. So, you should file with the board by September 1st whether or not you have heard from the municipality.

Q. How do I appeal to the superior court?

A. The board does not advise taxpayers about how, when or what to file with the superior court. You should check with the superior court in the county where your property is located or consult an attorney for this information.

Q. How do I appeal to the board?

A. You must apply in writing by the statutory deadline -- September 1, 2006 (in most cases). An appeal form has been included with this information packet. Your appeal must state what property you are appealing and the reasons for your appeal. You can only appeal with the board if you have timely filed an abatement request with the municipality and, if required, timely filed the inventory.

Q. What is the fee for filing an appeal with the board?

A. There is a non-refundable \$65.00 filing fee for the appeal (checks should be made payable to the **ATreasurer, State of New Hampshire**). This fee covers all property owned by a taxpayer in a town. However, if more than one parcel is appealed and the parcels are owned by different people, then a separate appeal document and \$65.00 fee is required. (Example: John Doe owns one property alone and another with Jane Doe. If both are appealed, two separate forms with a filing fee for each are required.)

Q. When will my hearing with the board be scheduled?

A. Your hearing for a 2005 appeal should be scheduled sometime during calendar year 2007.

Q. Can I contact the municipality to discuss my appeal while my appeal is pending with the board?

A. Yes. You can and should contact the municipality even after you have filed your appeal. Before the hearing, you should have already reviewed your assessment-record card with the municipality, and you and the municipality should have discussed possible settlement of the appeal.

Q. Do I need an attorney at the hearing?

A. No. You are not required to have an attorney at the hearing. However, some taxpayers choose to have attorneys represent them at the hearing. Others have tax representatives or family members who appear for them before the board.

Q. What do I do at the hearing, and who has the burden of proof at the hearing?

A. The **taxpayer** has the burden of proof, requiring the taxpayer to prove the assessment resulted in the taxpayer paying an unfair, illegal or disproportionate share of taxes. At the hearing, both the taxpayer and the municipality will make a presentation to the board. The municipality will usually explain the basis of the assessment and why no disproportionality exists. The taxpayer must show why the assessment resulted in him/her paying a disproportionate share of taxes. Taxpayers should: 1) have photographs of the property (exterior and representative of the interior); 2) have an opinion of what they think the property was worth on April 1st of the appealed year; 3) be prepared to explain the opinion of the property=s value, *e.g.*, comparable sales, appraisals; and 4) document other issues, *e.g.* errors on the assessment-record card.

Q. Do I need an appraisal for the hearing?

A. Not necessarily. However, it certainly is helpful and, in some cases, an appraisal is essential. Remember, the taxpayer has the burden of proof at the hearing, and appraisals can help carry the burden. If you do not obtain an appraisal, you should still be able to estimate the property's value and to explain the estimate, preferably with sales of similar properties. If you have an appraisal, statistical report or comparable sales, you must send a copy to the municipality **after** the hearing notice **but not less than 14 days before** the hearing.

Q. Where is the Board of Tax and Land Appeals located?

A. The board is located in **State Office Park South, Johnson Hall - 3rd floor, 107 Pleasant Street, Concord, New Hampshire**. After you arrive in Concord, go to the intersection of Main Street and Pleasant Street. Then turn onto Pleasant Street and go through three sets of lights. After the second set of lights, you will pass the federal building. After the third set of lights, you will be driving up a hill. At the top of the hill on the left you will see a sign for State Office Park South. Turn left. You will then see green signs directing you to Board of Tax and Land Appeals in Johnson Hall.

Q. I have an appeal pending before the board. Must I continue to apply with the town and appeal to the board for subsequent tax years while I wait for my appeal to be heard?

A. The simple answer is **No**. You do not **have** to appeal for subsequent years **unless** any of the following have changed since your original appeal:

- a) the property itself;
- b) the assessment; or
- c) the reasons for the appeal.

This simple answer, however, requires elaboration. The following will occur on your original (now pending) appeal:

- 1) the board will issue a decision **only** for the appealed year(s);
- 2) if an abatement is granted, the municipality shall abate taxes for the years between the filing of the appeal and the issuance of the decision, **using the ordered assessment with good-faith adjustments**;
- 3) if an abatement is granted, the municipality shall also **use the ordered assessment** for subsequent tax years **with good-faith adjustments**; and
- 4) if a taxpayer thinks the municipality made adjustments to the ordered assessment without having a good-faith reason, the taxpayer may file a motion with the board to determine if the municipality had a good-faith reason to adjust the ordered assessment.

***Note:** The above outline assumes no municipal-wide general revaluation or update has occurred and no changes have occurred in the property, the reasons for the appeal or the assessment other than good-faith adjustments.

As shown in 2) and 3) above, a taxpayer who has not appealed for subsequent tax years is entitled to some relief for subsequent tax years. However, as shown in 4) above, such a taxpayer can only make a limited challenge to the assessment for subsequent years, *i.e.*, they can only challenge whether the municipality had a good-faith reason to adjust the ordered assessment. If the municipality **shows** it had a good-faith reason, the adjusted assessment will stand unless the taxpayer **proves** the municipality did not have a good-faith basis. The taxpayer cannot challenge the magnitude of the adjustments unless the taxpayer shows the changes were so unreasonable that the municipality's adjustments were made without a good-faith basis.

Taxpayers must decide on their own whether to appeal each year or to rely on the provided rights without appealing. If you have any questions regarding subsequent tax year appeals, please address them to the board, in writing.